

HOUSE BILL ANALYSIS

HB 2525

Title: An act relating to bail bond recovery agents.

Brief Description: Requiring certification of bail bond recovery agents.

Sponsors: Representatives Carrell and Kastama.

Brief Summary of Bill

- Requires bail recovery agents to be certified by bail bond agencies before performing bail recovery agent functions.
- Requires the Department of Licensing to establish minimum standards bail recovery agents must meet before being eligible for certification.
- Subjects bail bond agencies to disciplinary action by the Department of Licensing for certifying unqualified bail recovery agents.
- Makes it a gross misdemeanor for a person to perform the functions of a bail recovery agent without being certified.

HOUSE COMMITTEE ON JUDICIARY

Staff: Trudes Hutcheson (786-7384).

Background:

In most cases, a criminal defendant has a right to be released on bail prior to trial. Criminal defendants who cannot afford to make bail often contract with bail bond agencies. The bail bond agency, after receiving collateral from the defendant or the defendant's family, posts the bail and guarantees that the defendant will appear in court.

When the state releases the defendant on bail, it essentially hands over "custody" of the defendant to the bail bond agency. If the defendant fails to appear, the court will demand that the defendant be surrendered or the bail bond will be forfeited. Bail bond agents often hire bail recovery agents to apprehend and surrender the defendant.

The bail recovery agent's authority to apprehend and surrender a defendant is derived from early case law. Courts have considered the recovery agent's right to recapture a fugitive as based on the private contractual right of the bail bond agency to exercise control over its principal.

Bail bond agencies are required to be licensed by the Department of Licensing and are subject to disciplinary action. However, there are no state statutes regulating bail recovery agents.

Summary of Bill:

A bail bond agency may not employ or use the services of a bail recovery agent unless the bail bond agency certifies the bail recovery agent. A certificate issued to a bail recovery agent authorizes that person to perform the functions of a bail recovery agent for the bail bond agency issuing the certificate and only for the time period specified in the certificate.

The certified bail recovery agent is subject to the supervision of the bail bond agency issuing the certificate. Certificates issued by one agency may not be transferable to another agency.

Before certifying the bail recovery agent, the bail bond agency must verify that the recovery agent has met the minimum standards established by the Department of Licensing. The bail bond agency may require any information and documentation that reasonably relates to the need to determine whether the recovery agent meets the standards. A bail bond agency must provide the department with a roster of bail recovery agents who are certified.

The department must establish minimum standards necessary for bail bond agencies to certify bail recovery agents. The standards must include:

- (a) a minimum level of education or experience appropriate for performing the duties of a bail recovery agent;
- (b) a minimum level of instruction in relevant areas of criminal and civil law;
- (c) a minimum level of instruction regarding appropriate use of force at different levels;
- (d) the nonexistence of felony criminal history;
- (e) adequate training of the use of firearms from the Criminal Justice Training Commission; and

(f) possession of a concealed pistol license.

The certificate, developed by the department must include, among other things, a statement that the bail bond agency attests that the bail recovery agent has met the minimum standards required by the department.

A bail bond agency is subject to disciplinary action by the department if the agency uses the services of a bail recovery agent without issuing the proper certification or issues a certificate to a bail recovery agent who does not meet the minimum standards.

It is a gross misdemeanor for a person to perform the functions of a bail recovery agent without first being certified by a bail bond agency licensed in the state.

Fiscal Note: Requested January 30, 2000.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Office of Program Research